

(g) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 106-65, div. A, title V, § 551(a)(1), Oct. 5, 1999, 113 Stat. 612; amended Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)-(d), (f)], Oct. 30, 2000, 114 Stat. 1654, 1654A-110, 1654A-111; Pub. L. 109-163, div. A, title VI, § 687(c)(15), Jan. 6, 2006, 119 Stat. 3336.)

AMENDMENTS

2006—Subsec. (f)(1). Pub. L. 109-163, § 687(c)(15)(A), substituted “shall be subject to the repayment provisions of section 303a(e) of title 37” for “may be required to repay the full amount of financial assistance” in introductory provisions.

Subsec. (f)(2). Pub. L. 109-163, § 687(c)(15)(B), inserted “Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37.” before “The Secretary of the Navy may waive” in introductory provisions.

2000—Pub. L. 106-398, § 1 [[div. A], title V, § 533(f)(1)], substituted “Class: college tuition assistance program” for “Class program: officer candidates pursuing degrees” in section catchline.

Subsec. (a). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(1), (f)(2)], struck out “for Financial Assistance Program” after “Authority” in heading and “enlisted” after “an eligible” in introductory provisions.

Subsec. (a)(2). Pub. L. 106-398, § 1 [[div. A], title V, § 533(c)], substituted “four” for “three”.

Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(2)(A)], substituted “a member” for “an enlisted member” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(2)(B)], substituted “a member of” for “an officer candidate in”.

Subsec. (b)(1)(B). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(1)(A), (B)], redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “meet the applicable age requirement specified in paragraph (2);”.

Subsec. (b)(1)(C), (D). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(1)(B), (C)], redesignated subpar. (D) as (C) and substituted “paragraph (2)” for “paragraph (3)”.

Subsec. (b)(2), (3). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(2)-(4)], redesignated par. (3) as (2), substituted “paragraph (1)(C)” for “paragraph (1)(D)” in introductory provisions, and struck out former par. (2) which read as follows:

“(2)(A) In the case of a member pursuing a baccalaureate degree, the member meets the age requirements of this paragraph if the member will be under 27 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 30 years that exceeds 27 years by a number of months that is not more than the number of months that the member served on active duty.

“(B) In the case of a member pursuing a doctor of jurisprudence or bachelor of laws degree, the member meets the age requirements of this paragraph if the member will be under 31 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 35 years that exceeds 31 years by a number of months that is not more than the number of months that the member served on active duty.”

Subsec. (f)(1). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(1)(A), (B)], in introductory provisions, sub-

stituted “An enlisted member who” for “A member who” and inserted “and an officer who receives financial assistance under this section may be required to repay the full amount of financial assistance,” after “for more than four years.”.

Subsec. (f)(1)(A). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(1)(C)], inserted “or, if already a commissioned officer in the Marine Corps, refuses to accept an assignment on active duty when offered” after “when offered”.

Subsec. (f)(2). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(2)], added par. (2) and struck out former par. (2) which read as follows: “The Secretary of the Navy may waive the obligated service under paragraph (1) of a person who is not physically qualified for appointment under section 532 of this title and later is determined by the Secretary of the Navy under section 505 of this title to be unqualified for service as an enlisted member of the Marine Corps due to a physical or medical condition that was not the result of misconduct or grossly negligent conduct.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

TRANSITION PROVISION

Pub. L. 106-65, div. A, title V, § 551(d), Oct. 5, 1999, 113 Stat. 614, provided that:

“(1) An enlisted member of the Marine Corps Reserve selected for training as an officer candidate under section 12209 of title 10, United States Code, before implementation of a financial assistance program under section 16401 of such title (as added by subsection (a)) may, upon application, participate in the financial assistance program established under section 16401 of such title (as added by subsection (a)) if the member—

“(A) is eligible for financial assistance under such section 16401;

“(B) submits a request for the financial assistance to the Secretary of the Navy not later than 180 days after the date on which the Secretary establishes the financial assistance program; and

“(C) enters into a written agreement described in subsection (b)(3) of such section.

“(2) Section 205(f) of title 37, United States Code, as added by subsection (c), applies to a member referred to in paragraph (1).”

PART V—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

[No present sections]

CHAPTER 1803—FACILITIES FOR RESERVE COMPONENTS

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AMENDMENTS

2004—Pub. L. 108-375, div. B, title XXVIII, §§2808(c), 2809(a)(2), Oct. 28, 2004, 118 Stat. 2125, 2127, substituted “Notice and wait requirements for certain projects” for “Limitation on certain projects; authority to carry out small projects with operation and maintenance funds” in item 18233a and added items 18233b and 18240.

1994—Pub. L. 103-337, div. A, title XVI, §1664(b)(1), (3), Oct. 5, 1994, 108 Stat. 3010, renumbered chapter 133 as this chapter and renumbered items 2231 to 2239 as items 18231 to 18239, respectively.

1982—Pub. L. 97-214, §3(b)(2), (c)(2), July 12, 1982, 96 Stat. 169, substituted “Limitation on certain projects; authority to carry out small projects with operation and maintenance funds” for “Limitation” in item 2233a, and added item 2239.

1958—Pub. L. 85-861, §1(42), Sept. 2, 1958, 72 Stat. 1457, inserted “: compliance with State law” in item 2237.

Pub. L. 85-685, title VI, §601(4), Aug. 20, 1958, 72 Stat. 665, added item 2233a.

§ 18231. Purpose

The purpose of this chapter is to provide for—

(1) the acquisition, by purchase, lease, transfer, construction, expansion, rehabilitation, or conversion of facilities necessary for the proper development, training, operation, and maintenance of the reserve components of the armed forces, including troop housing and messing facilities;

(2) the joint use of those facilities by units of two or more of those reserve components, to the greatest practicable extent for efficiency and economy;

(3) the use of those facilities, in time of war or national emergency, by those units and other units of the armed forces, to the greatest practicable extent for efficiency and economy; and

(4) any other use of those facilities by the United States, in time of war or national emergency, to the greatest practicable extent for efficiency and economy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 120, §2231; Pub. L. 85-215, §1, Aug. 29, 1957, 71 Stat. 489; renumbered §18231, Pub. L. 103-337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2231	50:881.	Sept. 11, 1950, ch. 945, §2, 64 Stat. 829.

In clause (1), the words “units of” are omitted as surplusage.

In clause (4), the words “United States” are substituted for the words “Federal Government”.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2231 of this title as this section.

1957—Par. (1). Pub. L. 85-215 included troop housing and messing facilities.

§ 18232. Definitions

In this chapter:

(1) The term “State” means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States and includes political subdivisions and military units thereof and tax-supported agencies therein.

(2) The term “facility” includes any (A) interest in land, (B) armory, readiness center, or other structure, and (C) storage or other facility normally needed for the administration and training of any unit of the reserve components of the armed forces.

(3) The terms “armory” and “readiness center” mean a structure that houses one or more units of a reserve component and is used for training and administering those units. Such terms include a structure that is appurtenant to such a structure and houses equipment used for that training and administration.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2232; Pub. L. 85-861, §1(36), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 97-214, §3(d)(1), July 12, 1982, 96 Stat. 170; Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; renumbered §18232, Pub. L. 103-337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 106-398, §1 [div. B, title XXVIII, §2807(a), (b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-415.)

HISTORICAL AND REVISION NOTES

1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2232	50:886.	Sept. 11, 1950, ch. 945, §7, 64 Stat. 831.

Clause (1) is substituted for 50:886(b). The words “(2) Puerto Rico; and (3) the District of Columbia” are omitted, since they are specifically included, where applicable, in the revised chapter. The words “together with any improvement thereto” and “of the United States” are omitted as surplusage. 50:886(c) is omitted, since the reserve components of the armed forces are named in section 261 of this title. 50:886(d) is omitted, since its subject matter is covered by other relevant sections of the revised chapter.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2232	50:886.	Aug. 9, 1955, ch. 662, §1(g), (h), 69 Stat. 594.

The last sentence of 50:886(b) is omitted as surplusage.

AMENDMENTS

2000—Par. (2)(B). Pub. L. 106-398, §1 [div. B, title XXVIII, §2807(b)(1)], substituted “armory, readiness center, or other structure” for “armory or other structure”.

Par. (3). Pub. L. 106-398, §1 [div. B, title XXVIII, §2807(a)], substituted “The terms ‘armory’ and ‘readiness center’ mean” for “The term ‘armory’ means” and “Such terms include” for “It includes”.

1994—Pub. L. 103-337 renumbered section 2232 of this title as this section.

1987—Pub. L. 100-26 inserted “The term” after each par. designation and struck out uppercase letter of first

word after first quotation marks in pars. (2) and (3) and substituted lowercase letter.

1982—Cl. (1). Pub. L. 97-214 substituted provision defining “State” as any State of the United States, the District of Columbia, Puerto Rico, and each territory and possession of the United States including political subdivisions and military units thereof and tax-supported agencies therein for provision defining “State” and “Territory” as including political subdivisions and military units thereof and tax-supported agencies therein.

1958—Cl. (3). Pub. L. 85-861 added cl. (3).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18233. Acquisition

(a) Subject to sections 18233a, 18234, 18235, 18236, and 18238 of this title and to subsection (c), the Secretary of Defense may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as are authorized by law to carry out the purposes of this chapter;

(2) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it or by the United States for use jointly by units of two or more reserve components of the armed forces or to acquire or construct facilities for such use;

(3) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it (or to acquire, construct, expand, rehabilitate, or convert additional facilities) made necessary by the conversion, redesignation, or reorganization of units of the Army National Guard of the United States or the Air National Guard of the United States authorized by the Secretary of the military department concerned;

(4) contribute to any State such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States;

(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter; and

(6) contribute to any State such amounts for the construction, alteration, or rehabilitation of critical portions of facilities as the Secretary determines to be required to meet a change in Department of Defense construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility.

(b) Title to property acquired by the United States under subsection (a)(1) vests in the United States. Such property may be transferred to any State incident to the expansion,

rehabilitation, or conversion of such property under subsection (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State within a Federal installation.

(c) The Secretary of Defense may delegate any of his authority or functions under this chapter to any department, agency, or officer of the Department of Defense.

(d) The expenses of leasing property under subsection (a)(1) may be paid from appropriations available for the payment of rent.

(e) The Secretary of Defense may procure, or contribute to any State such amounts as the Secretary determines to be necessary to procure, architectural and engineering services and construction design in connection with facilities to be established or developed under this chapter which are not otherwise authorized by law.

(f)(1) Authority provided by law to construct, expand, rehabilitate, convert, or equip any facility under this section includes authority to expend funds for surveys, administration, overhead, planning, design, and supervision incident to any such activity.

(2) Authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase or gift.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2233; Pub. L. 85-685, title VI, §601(1), (2), Aug. 20, 1958, 72 Stat. 664; Pub. L. 85-861, §1(37)–(39), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 96-125, title VII, §703, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97-99, title VIII, §§803, 804, Dec. 23, 1981, 95 Stat. 1380, 1381; Pub. L. 97-214, §§3(a), (d)(2), (e)(1), 10(a)(2), July 12, 1982, 96 Stat. 169, 170, 175; Pub. L. 98-407, title VII, §703(a), Aug. 28, 1984, 98 Stat. 1517; Pub. L. 98-525, title XIV, §1405(34), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 99-167, title VII, §702(a), Dec. 3, 1985, 99 Stat. 985; Pub. L. 102-190, div. B, title XXVIII, §2801, Dec. 5, 1991, 105 Stat. 1537; renumbered §18233 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (4), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 106-65, div. B, title XXVIII, §2805, Oct. 5, 1999, 113 Stat. 850; Pub. L. 108-375, div. B, title XXVIII, §2809(b), Oct. 28, 2004, 118 Stat. 2127; Pub. L. 109-364, div. A, title X, §1071(a)(42), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111-84, div. B, title XXVIII, §2805, Oct. 28, 2009, 123 Stat. 2662.)

HISTORICAL AND REVISION NOTES 1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2233(a)	50:882.	Sept. 11, 1950, ch. 945, §§3, 4(c) (1st sentence), 5, 64 Stat. 830, 831.
2233(b)	50:883(c) (1st sentence).	
2233(c)	50:884.	

In subsection (a), the 16th through the 31st words are omitted as executed on July 1, 1955, the end of the 5-year period.

In subsection (a)(2), the words “to the extent required” are omitted as covered by the word “necessary”. The words “use jointly by units of two or more of the reserve components of the armed forces” are substituted for the words “joint utilization of such facilities” to reflect 50:886(d).

In subsections (a)(2) and (3), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(b).

In subsection (a)(3), the words “to be required” are substituted for the words “to have been made essential”.

In subsection (b), the words “real or personal” are omitted as surplusage.

In subsection (c), the words “all or * * * part”, “conferred”, “imposed”, “without relieving himself of the responsibility therefor”, “or officers”, and “as he may designate from time to time” are omitted as surplusage.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2233(a)	50:882 (less 16th through 36th words and (a)).	Aug. 9, 1955, ch. 662, §1(b), (d), 69 Stat. 593.
2233(b)	50:883(c) (2d sentence).	
2233(d)	50:882(a) (less last 12 words).	Aug. 3, 1956, ch. 939, §414 (less last 12 words), 70 Stat. 1018.

In subsections (a)(2), (3), and (4), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(c).

In subsection (d), 50:882(a) (1st 28 words) is omitted as covered by section 2233(a)(1) of this title.

CODIFICATION

Subsequent to enactment of this section, act Sept. 11, 1950 (cited in the Historical and Revision Notes above) was amended by acts Aug. 9, 1955, ch. 662, 69 Stat. 593; Aug. 3, 1956, ch. 939, title IV, §414, 70 Stat. 1018; Aug. 29, 1957, Pub. L. 85-215, §2, 71 Stat. 490. The amendments were later repealed and reenacted in sections 2233 and 2236 to 2238 [now 18233 and 18236 to 18238] of this title by Pub. L. 85-685, title VI, §602, Aug. 20, 1958, 72 Stat. 665, and Pub. L. 85-861, §§1(37)–(39), 16, 36, Sept. 2, 1958, 72 Stat. 1456, 1558, 1568.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-84 substituted “as are authorized by law” for “as he determines to be necessary”.

2006—Subsec. (f)(2). Pub. L. 109-364 struck out comma after “purchase”.

2004—Subsec. (f)(2). Pub. L. 108-375 substituted “or gift” for “gift, exchange of Government-owned land, or otherwise”.

1999—Subsec. (f)(1). Pub. L. 106-65 inserted “design,” after “planning,”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2233 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1664(b)(4), substituted “18233a, 18234, 18235, 18236, and 18238” for “2233a, 2234, 2235, 2236, and 2238”.

1991—Subsec. (a)(2). Pub. L. 102-190 inserted before semicolon “or to acquire or construct facilities for such use”.

1985—Subsec. (e). Pub. L. 99-167 amended subsec. (e) generally, inserting “, or contribute to any State such amounts as the Secretary determines to be necessary to procure,”.

1984—Subsec. (a). Pub. L. 98-525, §1405(34)(A), substituted “to subsection (c)” for “subsection (c) of this section”.

Subsec. (a)(6). Pub. L. 98-407 substituted “critical portions of facilities” for “arms storage rooms” and “construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility” for “standards related to the safekeeping of arms”.

Subsec. (b). Pub. L. 98-525, §1405(34)(B), struck out “or Territory, Puerto Rico, or the District of Columbia” after “State” in two places. See section 18232(1) of this title.

1982—Subsec. (a)(2) to (4). Pub. L. 97-214, §3(d)(2), struck out “or Territory, Puerto Rico, or the District of Columbia” after “contribute to any State”.

Subsec. (a)(5). Pub. L. 97-214, §3(e)(1), substituted “contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure

of existing facilities to meet the purposes of this chapter” for “contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter” and “A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied”.

Subsec. (a)(6). Pub. L. 97-214, §3(d)(2), struck out “or Territory, Puerto Rico, or the District of Columbia” after “contribute to any State”.

Subsec. (e). Pub. L. 97-214, §10(a)(2), substituted “architectural and engineering services and construction design” for “advance planning, construction design, and architectural services”.

Subsec. (f). Pub. L. 97-214, §3(a), expanded subsec. (f) into pars. (1) and (2), and substituted provision that legal authority to construct, expand, rehabilitate, etc., any facility under this section, also includes the authority to expend funds for surveys, administration, overhead, planning, and supervision incident to any such activity and provisions that authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase, gift, exchange of Government-owned land, or otherwise, for provisions that facilities authorized by subsec. (a) could not be considered “military public works” under the military construction authorization acts that repeal prior authorizations for military public works.

1981—Subsec. (a)(2). Pub. L. 97-99, §803(1), inserted “or by the United States” after “or convert facilities owned by it”.

Subsec. (a)(6). Pub. L. 97-99, §804, added par. (6).

Subsec. (b). Pub. L. 97-99, §803(2), inserted provisions that such property may be transferred to any State or Territory, Puerto Rico, or the District of Columbia incident to the expansion, rehabilitation, or conversion of such property under subsec. (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State or Territory, Puerto Rico, or the District of Columbia within a Federal installation.

1979—Subsec. (a)(5). Pub. L. 96-125 added par. (5).

1958—Subsec. (a). Pub. L. 85-861, §1(37), substituted “two or more reserve components” for “two or more of the reserve components” in cl. (2), added cl. (3), and redesignated former cl. (3) as (4).

Pub. L. 85-685, §601(1), inserted reference to section 2233a of this title in opening provisions, and struck out provisions which required the Secretary of Defense to consult with the Committees on Armed Services of the Senate and House of Representatives.

Subsec. (b). Pub. L. 85-861, §1(38), inserted “by the United States” after “property acquired”.

Subsec. (d). Pub. L. 85-861, §1(39), added subsec. (d).

Subsecs. (e), (f). Pub. L. 85-685, §601(2), added subsecs. (e) and (f).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 703(b) of Pub. L. 98-407 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

OBLIGATION OF FUNDS BEFORE JULY 1, 1958

Section 16 of Pub. L. 85-861, Sept. 2, 1958, 72 Stat. 1558, provided that not more than \$580,000,000 could be obli-

gated for the purposes of this section before July 1, 1958, but with such limitation not applicable to the expenses for the leasing of property under subsec. (a)(1) of this section.

§ 18233a. Notice and wait requirements for certain projects

(a) CONGRESSIONAL NOTIFICATION.—Except as provided in subsection (b), an expenditure or contribution in an amount in excess of \$750,000 may not be made under section 18233 of this title for any facility until—

(1) the Secretary of Defense has notified the congressional defense committees of the location, nature, and estimated cost of the facility; and

(2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(b) CERTAIN EXPENDITURES OR CONTRIBUTIONS EXEMPTED.—Subsection (a) does not apply to expenditures or contributions for the following:

(1) Facilities acquired by lease.

(2) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

(A) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

(B) the current working estimate of the cost of the project does not exceed the amount approved for the project by more than the lesser of the following:

(i) 25 percent.

(ii) 200 percent of the amount specified by section 2805(a) of this title as the maximum amount for a minor military construction project.

(3) A repair project (as that term is defined in section 2811(e) of this title) that costs less than \$7,500,000.

(Added Pub. L. 85-685, title VI, § 601(3), Aug. 20, 1958, 72 Stat. 665, § 2233a; amended Pub. L. 87-554, title VII, § 701, July 27, 1962, 76 Stat. 243; Pub. L. 93-552, title VII, § 703, Dec. 27, 1974, 88 Stat. 1770; Pub. L. 94-107, title VII, § 703, Oct. 7, 1975, 89 Stat. 569; Pub. L. 96-125, title VII, § 704, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97-214, § 3(c)(1), July 12, 1982, 96 Stat. 169; Pub. L. 98-115, title VII, § 702, Oct. 11, 1983, 97 Stat. 782; Pub. L. 98-407, title VII, § 702, Aug. 28, 1984, 98 Stat. 1517; Pub. L. 100-26, § 7(f)(1), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100-180, div. B, subdiv. 3, title I, § 2304(a), Dec. 4, 1987, 101 Stat. 1215; Pub. L. 102-190, div. B, title XXVIII, § 2804, Dec. 5, 1991, 105 Stat. 1537; renumbered § 18233a and amended Pub. L. 103-337, div. A, title XVI, § 1664(b)(2), (5), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104-106, div. A, title XV, § 1502(a)(10), Feb. 10, 1996, 110 Stat. 503; Pub. L. 104-201, div. B, title XXVIII, § 2801(b), (c), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 106-65, div. A, title X, § 1067(1), div. B, title XXVIII, § 2806, Oct. 5, 1999, 113 Stat. 774, 850; Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)], Oct. 30, 2000, 114 Stat. 1654, 1654A-291; Pub. L. 108-375, div. B, title XXVIII, § 2808(a), Oct. 28, 2004, 118 Stat. 2124;

Pub. L. 112-81, div. B, title XXVIII, § 2802(c)(3), Dec. 31, 2011, 125 Stat. 1685.)

AMENDMENTS

2011—Subsec. (b)(2)(B)(ii). Pub. L. 112-81 substituted “section 2805(a)” for “section 2805(a)(2)”.

2004—Pub. L. 108-375 amended section generally, substituting provisions relating to notice and wait requirements for certain projects for provisions relating to limitation on certain projects and authority to carry out small projects with operation and maintenance funds.

2000—Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)(A)], substituted “section 2805(c)(1)(A)” for “section 2805(c)(1)”.

Subsec. (b)(2). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)(B)], substituted “section 2805(c)(1)(B)” for “section 2805(c)(2)”.

1999—Subsec. (a)(1). Pub. L. 106-65, § 1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Subsec. (a)(2)(C). Pub. L. 106-65, § 2806(a), added subpar. (C).

Subsec. (b). Pub. L. 106-65, § 2806(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Under such regulations as the Secretary of Defense may prescribe, a project authorized under section 18233(a) of this title that costs \$500,000 or less may be carried out with funds available for operations and maintenance.”

1996—Subsec. (a)(1). Pub. L. 104-201, § 2801(c), substituted “\$1,500,000” for “\$400,000”.

Pub. L. 104-106 substituted “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the” for “the Committees on Armed Services and on Appropriations of the Senate and”.

Subsec. (b). Pub. L. 104-201, § 2801(b), substituted “\$500,000” for “\$300,000”.

1994—Pub. L. 103-337, § 1664(b)(2), renumbered section 2233a of this title as this section.

Subsec. (a)(1). Pub. L. 103-337, § 1664(b)(5)(A), substituted “18233” for “2233”.

Subsec. (b). Pub. L. 103-337, § 1664(b)(5)(B), substituted “18233(a)” for “2233(a)”.

1991—Subsec. (b). Pub. L. 102-190 substituted “\$300,000” for “\$200,000”.

1987—Subsec. (a)(2)(B)(ii)(II). Pub. L. 100-26 substituted “specified by section 2805(a)(2) of this title” for “specified by law”.

Subsec. (b). Pub. L. 100-180 substituted “\$200,000” for “\$100,000”.

1984—Subsec. (b). Pub. L. 98-407 substituted “\$100,000” for “\$50,000”.

1983—Subsec. (a)(1). Pub. L. 98-115 substituted “\$400,000” for “\$200,000”.

1982—Pub. L. 97-214 substituted “Limitation on certain projects; authority to carry out small projects with operation and maintenance funds” for “Limitation” as section catchline and completely revised text. Before such revision section had provided that no expenditure or contribution of more than \$175,000 could be made under section 2233 of this title for any facility until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notified the Senate and the House of Representatives of the location, nature, and estimated cost of such facility, but that such requirement did not apply to facilities acquired by lease, facilities acquired, constructed, expanded, rehabilitated, converted, or equipped to restore or replace facilities damaged or destroyed, where the Senate and the House of Representatives had been notified of that action, and that, under such regulations as the Secretary of Defense might prescribe, any project authorized pursuant to section 2233(a) which did not cost more than \$50,000 could be accomplished from appropriations available for maintenance and operations.

1979—Par. (1). Pub. L. 96-125 substituted “\$175,000” for “\$100,000”.

1975—Par. (2). Pub. L. 94-107 substituted “\$50,000” for “\$25,000”.

1974—Par. (1). Pub. L. 93-552 substituted “\$100,000” for “\$850,000”.

1962—Pub. L. 87-554 designated existing provisions as par. (1), substituted “until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notifies the Senate and the House of Representatives of the location, nature, and estimated cost of such facility” for “that has not been authorized by a law authorizing appropriations for specific facilities for reserve forces”, and added par. (2).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 2304(b) of Pub. L. 100-180 provided that: “The amendment made by subsection (a) [amending this section] shall apply to projects authorized under section 2233(a) [now 18233(a)] of title 10, United States Code, for which contracts are entered into on or after the date of the enactment of this Act [Dec. 4, 1987].”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 702 of Pub. L. 98-407 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 702 of Pub. L. 98-115 provided that the amendment made by that section is effective Oct. 1, 1983.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18233b. Authority to carry out small projects with operation and maintenance funds

Under such regulations as the Secretary of Defense may prescribe, the Secretary may expend, from appropriations available for operation and maintenance, amounts necessary to carry out any project authorized under section 18233(a) of this title that costs not more than the amount specified in section 2805(c) of this title.

(Added Pub. L. 108-375, div. B, title XXVIII, § 2808(b), Oct. 28, 2004, 118 Stat. 2125; amended Pub. L. 112-81, div. B, title XXVIII, § 2802(c)(4), Dec. 31, 2011, 125 Stat. 1685.)

AMENDMENTS

2011—Pub. L. 112-81 substituted “not more than the amount specified in section 2805(c) of this title.” for “not more than—

“(1) the amount specified in section 2805(c)(1)(A) of this title, in the case of a project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

“(2) the amount specified in section 2805(c)(1)(B) of this title, in the case of any other project.”

§ 18234. Location and use

No expenditures or contribution may be made for a facility under section 18233 of this title, unless the Secretary of Defense determines that—

(1) the number of units of the reserve components of the armed forces located or to be lo-

cated in the area within which the facility is to be provided is not and will not be larger than the number that can reasonably be expected to be maintained at authorized strength, considering the number of persons living in the area who are qualified for membership in those reserve units; and

(2) the plan under which the facility is to be provided makes provision for the greatest practicable use of the facility jointly by units of two or more of those components.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, § 2234; renumbered § 18234 and amended Pub. L. 103-337, div. A, title XVI, § 1664(b)(2), (6), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2234	50:883(a).	Sept. 11, 1950, ch. 945, § 4(a), 64 Stat. 830.

The word “community” is omitted as covered by the word “area”. The word “program” is omitted as covered by the word “plan”. The words “use * * * jointly by units of two or more of those components” are substituted for the words “joint utilization” to reflect 50:886(d). The words “is not and will not be larger than” are substituted for the words “does not exceed”. The word “considering” is substituted for the words “taking into account”.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2234 of this title as this section and substituted “18233” for “2233” in introductory provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 18235. Administration; other use permitted by Secretary

(a) The Secretary of Defense, after consulting the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on matters of policy, may—

(1) administer, operate, maintain, and equip facilities constructed, expanded, rehabilitated, or converted under section 18233 of this title or otherwise acquired and used for the purposes of this chapter;

(2) permit persons or organizations other than members and units of the armed forces to use those facilities under such leases or other agreements as he considers appropriate; and

(3) cover the payments received under those leases or agreements into the Treasury to the credit of the appropriation from which the cost of maintaining the facility, including its utilities and services, is paid.

(b) The Secretary may not permit any use or disposition to be made of a facility covered by subsection (a) that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 122, §2235; renumbered §18235 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (7), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104-106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2235(a)	50:883(c) (less 1st sentence, and less last 70 words of last sentence).	Sept. 11, 1950, ch. 945, §4(c) (less 1st sentence), 64 Stat. 830.
2235(b)	50:883(c) (last 70 words of last sentence).	

In subsection (a), the words “from time to time” and “or appropriations” are omitted as surplusage.

In subsection (b), the words “United States” are substituted for the words “Federal Government”. The words “units of” are omitted as surplusage. The words “may not” are substituted for the words “shall at no time”.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

1996—Subsec. (a). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and the House of Representatives”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2235 of this title as this section.

Subsec. (a)(1). Pub. L. 103-337, §1664(b)(7), substituted “18233” for “2233(a)(1)”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 18236. Contributions to States; other use permitted by States

(a) Contributions under section 18233 of this title are subject to such terms as the Secretary of Defense, after consulting the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, considers necessary for the purposes of this chapter. Except as otherwise agreed when the contribution is made, a facility provided by a contribution under paragraph (3) or (4) of section 18233(a) of this title may be used jointly by units of two or more reserve components of the armed forces only to the extent that the State considers practicable.

(b) A contribution made for an armory or readiness center under paragraph (4) or (5) of section 18233(a) of this title may not exceed the sum of—

(1) 100 percent of the cost of architectural, engineering and design services (including advance architectural, engineering and design services under section 18233(e) of this title); and

(2) a percentage of the cost of construction (exclusive of the cost of architectural, engineering and design services) calculated so that upon completion of construction the total contribution (including the contribution for architectural, engineering and design services)

equals 75 percent of the total cost of construction (including the cost of architectural, engineering and design services).

For the purpose of computing the cost of construction under this subsection, the amount contributed by a State may not include the cost or market value of any real property that it has contributed.

(c) If a State acquires, constructs, expands, rehabilitates, or converts a facility with amounts contributed under section 18233 of this title, it may—

(1) permit persons or organizations other than members and units of the armed forces to use the facility under such leases or other agreements as it considers appropriate; and

(2) apply amounts received under those leases or agreements to the cost of maintaining the facility.

(d) Except as otherwise agreed when the contribution is made, and except as the agreement is later changed, a State may not permit any use or disposition of the facility that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 122, §2236; Pub. L. 85-861, §1(40), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 97-214, §3(d)(2), (3), (e)(2), July 12, 1982, 96 Stat. 170; Pub. L. 99-167, title VII, §702(b), Dec. 3, 1985, 99 Stat. 985; Pub. L. 99-661, div. A, title XIII, §1343(a)(11), Nov. 14, 1986, 100 Stat. 3993; renumbered §18236 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (8), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104-106, div. A, title XV, §1501(b)(36), 1502(a)(2), Feb. 10, 1996, 110 Stat. 498, 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, §1 [div. B, title XXVIII, §2807(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-415.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2236(a)	50:883(d) (1st sentence).	Sept. 11, 1950, ch. 945, §4(d), (e), 64 Stat. 830.
2236(b)	50:883(d) (less 1st sentence).	
2236(c)	50:883(e) (less last 87 words).	
2236(d)	50:883(e) (last 87 words).	

Appropriate references to the Territories, Puerto Rico, and the District of Columbia are inserted throughout the revised section to reflect 50:886(b).

In subsection (a), the words “and conditions” are omitted as covered by the word “terms”. The words “considers necessary for” are substituted for the words “shall deem necessary to accomplish”. The words “used jointly by units of two or more reserve components of the armed forces” are substituted for the words “joint utilization”, to reflect 50:886(d).

In subsection (b), the words “the construction to which it is to be applied” are substituted for the words “the additional or improved facilities to be constructed”, since, under section 2233 of this title, contributions may be made for other purposes as well as additions and improvements. The words “may not include” are substituted for the words “shall be exclusive of”.

In subsection (c)(1), the words “from time to time” are omitted as surplusage.

In subsection (c)(2), the words “defray in whole or in part” are omitted as surplusage.

In subsection (d), the words “except as the agreement is later changed” are substituted for the words “by subsequent modifications of the agreement.” The words “units of” and “at no time” are omitted as surplusage. The words “United States” are substituted for the words “Federal Government”.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2236(a)	50:883(d) (1st sentence).	Aug. 9, 1955, ch. 662,
2236(b)	50:883(d) (less 1st sentence).	§1(e), 69 Stat. 593.

In subsection (a), the words “may be used jointly” are substituted for the words “shall be subject to joint utilization”. The words “and conditions” are omitted as surplusage.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-398 inserted “or readiness center” after “armory” in introductory provisions.

1999—Subsec. (a). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (a). Pub. L. 104-106, §1502(a)(2), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and the House of Representatives”.

Subsec. (b)(1). Pub. L. 104-106, §1501(b)(36), substituted “18233(e)” for “2233(e)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2236 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1664(b)(8)(A), substituted “18233” for “2233” and “paragraph (3) or (4) of section 18233(a)” for “section 2233(a)(3) or (4)”.

Subsec. (b). Pub. L. 103-337, §1664(b)(8)(B)(i), substituted “paragraph (4) or (5) of section 18233(a)” for “clause (4) or (5) of section 2233(a)” in introductory provisions.

Subsec. (b)(2). Pub. L. 103-337, §1664(b)(8)(B)(ii), which directed amendment of par. (2) by substituting “section 18233(e)” for “section 2233(e)”, could not be executed because the words “section 2233(e)” did not appear in par. (2).

Subsec. (c). Pub. L. 103-337, §1664(b)(8)(C), substituted “18233” for “2233” in introductory provisions.

1986—Subsec. (b). Pub. L. 99-661 struck out “, territory, the Commonwealth of Puerto Rico, or the District of Columbia, as the case may be,” after “contributed by a State” in last sentence.

1985—Subsec. (b). Pub. L. 99-167 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A contribution made for an armory under section 2233(a)(4) or (5) of this title may not be more than 75 percent of the cost of the construction to which it is applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State may not include the cost or market value of any real property that it has contributed.”

1982—Subsec. (a). Pub. L. 97-214, §3(d)(3), struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is concerned,” after “the State”.

Subsec. (b). Pub. L. 97-214, §3(d)(3), (e)(2), inserted “or (5)”, and struck out “or Territory, Puerto Rico, or the District of Columbia, whichever is concerned,” after “the State”.

Subsecs. (c), (d). Pub. L. 97-214, §3(d)(2), struck out “or Territory, Puerto Rico, or the District of Columbia” after “a State”.

1958—Subsec. (a). Pub. L. 85-861 permitted joint use of facilities provided by contributions under section 2233(a)(4) of this title.

Subsec. (b). Pub. L. 85-861 substituted “A contribution made for an armory under section 2233(a)(4) of this title may not be more than 75 percent of the cost of the construction to which it is applied” for “No contribution made for a facility under section 2233(a)(3) of this title may be more than 75 percent of the cost of the construction to which it is to be applied”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1501(b)(36) of Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18237. Supervision of construction: compliance with State law

(a) Any construction, expansion, rehabilitation, or conversion under section 18233(a)(1) of this title may be performed under the supervision of the Chief of Engineers of the Army or the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate.

(b) The construction, expansion, rehabilitation, or conversion of facilities in a State under paragraph (2), (3), (4), (5), or (6) of section 18233(a) of this title shall be done according to the laws of that jurisdiction and under the supervision of its officials, subject to the inspection and approval of the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 123, §2237; Pub. L. 85-861, §1(41), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 89-718, §19, Nov. 2, 1966, 80 Stat. 1118; Pub. L. 97-214, §3(d)(2), July 12, 1982, 96 Stat. 170; renumbered §18237 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (9), div. B, title XXVIII, §2852, Oct. 5, 1994, 108 Stat. 3010, 3011, 3072; Pub. L. 104-106, div. A, title XV, §1501(b)(37), Feb. 10, 1996, 110 Stat. 498.)

HISTORICAL AND REVISION NOTES

1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2237	50:885.	Sept. 11, 1950, ch. 945, §6, 64 Stat. 831.

The words “of facilities” are omitted as surplusage. The words “Chief of Engineers” are substituted for the words “Chief, Corps of Engineers” to conform to section 3036(a)(1) of this title. The words “of the Army” and “of the Navy” are inserted for clarity.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2237(a)	50:885(a).	Aug. 9, 1955, ch. 662, §1(f),
2237(b)	50:885 (less (a)).	69 Stat. 594.

In subsection (b), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(c).

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §1501(37)(A), substituted “18233(a)(1)” for “2233(a)(1)”.

Subsec. (b). Pub. L. 104-106, §1501(37)(B), substituted “18233(a)” for “2233(a)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2237 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1664(b)(9)(A), which directed amendment of subsec. (a) by substituting “paragraph (2), (3), or (4) of section 18233(a)” for “section 2233(a)(2), (3) and (4)”, could not be executed because the words “section 2233(a)(2), (3) and (4)” did not appear subsequent to intervening amendment by Pub. L. 103-337, §2852(a). See below.

Pub. L. 103-337, §2852(a), substituted “under section 2233(a)(1)” for “under any provision of this chapter except section 2233(a)(2), (3), and (4)”.

Subsec. (b). Pub. L. 103-337, §1664(b)(9)(B), which directed amendment of subsec. (b) by substituting “paragraph (2), (3), or (4) of section 18233(a)” for “section 2233(a)(2), (3) or (4)”, could not be executed because the words “section 2233(a)(2), (3) or (4)” did not appear subsequent to intervening amendment by Pub. L. 103-337, §2852(b). See below.

Pub. L. 103-337, §2852(b), substituted “paragraph (2), (3), (4), (5), or (6) of section 2233(a)” for “section 2233(a)(2), (3), or (4)”.

1982—Subsec. (b). Pub. L. 97-214 struck out “or Territory, Puerto Rico, or the District of Columbia” after “facilities in a State”.

1966—Subsec. (a). Pub. L. 89-718 substituted “the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate” for “the Chief of the Bureau of Yards and Docks of the Navy”.

1958—Pub. L. 85-861 inserted “: compliance with State law” in section catchline.

Subsec. (a). Pub. L. 85-861 designated existing provisions as subsec. (a) and substituted “under any provision of this chapter except section 2233(a)(2), (3), and (4) of this title” for “under this chapter”.

Subsec. (b). Pub. L. 85-861 added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1664(b)(2), (9) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 123, §2238; Pub. L. 85-861, §1(43), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 97-214, §3(d)(4), July 12, 1982, 96 Stat. 170; renumbered §18238, Pub. L. 103-337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES

1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2238	50:883(b).	Sept. 11, 1950, ch. 945, §4(b), 64 Stat. 830.

The words “from any community or area” are omitted as surplusage. The word “relocated” is substituted for the words “location * * * be changed”. The words “Territory, or Puerto Rico, or the commanding general of the National Guard of the District of Columbia” are inserted to reflect 50:886(b), since the source statute applied to the District of Columbia and there is no “governor” of the District of Columbia. The words “as the case may be” are substituted for the words “within which such unit is situated”. The words “with regard to such withdrawal or change of location” are omitted as surplusage.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2238	50:883(b).	Aug. 9, 1955, ch. 662, §1(c), 69 Stat. 593.

The words “shall have been consulted” and “such withdrawal or change of location” are omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2238 of this title as this section.

1982—Pub. L. 97-214 substituted “or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia” for “or Territory, or Puerto Rico, or the commanding general of the District of Columbia, as the case may be”.

1958—Pub. L. 85-861 required the consent of the governor, or the commanding general of the National Guard of the District of Columbia, prior to relocation or withdrawal.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18239. Waiver of certain restrictions

(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 18233 of this title without regard to section 3324(a) and (b) of title 31.

(b) Authority provided by law to place permanent or temporary improvements on land under section 18233 of this title may be exercised on land not owned by the United States—

(1) before title to the land on which the improvement is located (or is to be located) is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(Added Pub. L. 97-214, §3(b)(1), July 12, 1982, 96 Stat. 169, §2239; amended Pub. L. 97-295, §1(23), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 97-321, title VIII, §805(a)(2), Oct. 15, 1982, 96 Stat. 1573; renumbered §18239 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (10), Oct. 5, 1994, 108 Stat. 3010, 3011; Pub. L. 107-217, §3(b)(42), Aug. 21, 2002, 116 Stat. 1298.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2239 of this title as this section.

Subsecs. (a), (b). Pub. L. 103-337, §1664(b)(10), substituted “18233” for “2233”.

1982—Subsec. (a). Pub. L. 97-295 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

Subsec. (b). Pub. L. 97-321, in introductory text, substituted “on land” for “on lands” and inserted “on land not owned by the United States”; redesignated former cl. (1) as par. (1); added par. (2) and struck out former cl. (2) “even though the land is held temporarily”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 18240. Acquisition of facilities by exchange

(a) **EXCHANGE AUTHORITY.**—In addition to the acquisition authority provided by section 18233 of this title, the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State, local government, local authority, or private entity. The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.

(b) **FACILITIES ELIGIBLE FOR EXCHANGE.**—Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

(c) **EQUAL VALUE EXCHANGE.**—In any exchange carried out using the authority provided by this section, the value of the replacement facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

(d) **REQUIREMENTS FOR REPLACEMENT FACILITIES.**—The Secretary of a military department

may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition—

(1) is complete and usable, fully functional, and ready for occupancy;

(2) satisfies all operational requirements; and

(3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

(e) **CONSULTATION REQUIREMENTS.**—The Secretary of a military department authorized to enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate—

(1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and

(2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

(f) **ADVANCE NOTICE OF PROPOSED EXCHANGE.**—

(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that lead to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.

(2) The agreement described in a report prepared under paragraph (1) may be entered into, and the exchange covered by the agreement made, only after the end of the 30-day period beginning on the date the report is received by the congressional defense committees or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(3) Section 2662 of this title shall not apply to an exchange carried out using the authority provided by this section.

(g) RELATION TO OTHER MILITARY CONSTRUCTION REQUIREMENTS.—The acquisition of a facility, or an addition to an existing facility, using the authority provided by this section shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(Added Pub. L. 108-375, div. B, title XXVIII, §2809(a)(1), Oct. 28, 2004, 118 Stat. 2125; amended Pub. L. 109-163, div. B, title XXVIII, §2808(a), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110-181, div. B, title XXVIII, §2807, Jan. 28, 2008, 122 Stat. 541.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State” for “with a State”.

2006—Subsec. (a). Pub. L. 109-163, §2808(a)(1), inserted at end “The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.”

Subsec. (c). Pub. L. 109-163, §2808(a)(2), inserted “including any utilities, equipment, and furnishings, to be” after “existing facility.”.

TEMPORARY AUTHORITY TO INCLUDE CASH EQUALIZATION PAYMENTS IN EXCHANGE

Pub. L. 108-375, div. B, title XXVIII, §2809(c), Oct. 28, 2004, 118 Stat. 2127, as amended by Pub. L. 109-163, div. B, title XXVIII, §2808(b), Jan. 6, 2006, 119 Stat. 3508; Pub. L. 110-181, div. B, title XXVIII, §2805, Jan. 28, 2008, 122 Stat. 540, provided that:

“(1) Notwithstanding subsection (c) of section 18240 of title 10, United States Code, as added by subsection (a), the Secretary of Defense may authorize the Secretary of a military department, as part of an exchange agreement under such section, to make or accept a cash equalization payment if the value of the facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States under the agreement is not equal to the fair market value of the facility to be conveyed by the United States under the agreement. All other requirements of such section shall continue to apply to the exchange.

“(2) Cash equalization payments received by the Secretary of a military department under this subsection shall be deposited in a separate account in the Treasury. Amounts in the account shall be available to the Secretary of Defense, without further appropriation and until expended, for transfer to the Secretary of a military department—

“(A) to make any cash equalization payments required to be made by the United States in connection with an exchange agreement covered by this subsection, and the account shall be the only source for such payments; and

“(B) to cover costs associated with the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of facilities, and additions to existing facilities, ac-

quired using an exchange agreement covered by this subsection.

“(3) Not more than 15 exchange agreements under section 18240 of title 10, United States Code, may include the exception for cash equalization payments authorized by this subsection. Of those 15 exchange agreements, not more than eight may be for the same reserve component.

“(4) In this section, the term ‘facility’ has the meaning given that term in section 18232(2) of title 10, United States Code.

“(5) No cash equalization payment may be made or accepted under the authority of this subsection after September 30, 2010. Except as otherwise specifically authorized by law, the authority provided by this subsection to make or accept cash equalization payments in connection with the acquisition or disposal of facilities of the reserve components is the sole authority available in law to the Secretary of Defense or the Secretary of a military department for that purpose.

“(6) Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the exercise of the authority provided by this subsection. The report shall include the following:

“(A) A description of the exchange agreements under section 18240 of title 10, United States Code, that included the authority to make or accept cash equalization payments.

“(B) A description of the analysis and criteria used to select such agreements for inclusion of the authority to make or accept cash equalization payments.

“(C) An assessment of the utility to the Department of Defense of the authority, including recommendations for modifications of such authority in order to enhance the utility of such authority for the Department.

“(D) An assessment of interest in the future use of the authority, in the event the authority is extended.

“(E) An assessment of the advisability of making the authority, including any modifications of the authority recommended under subparagraph (C), permanent.”

CHAPTER 1805—MISCELLANEOUS PROVISIONS

Sec.

- 18501. Reserve components: personnel and logistic support by military departments.
- 18502. Reserve components: supplies, services, and facilities.
- 18505. Reserves traveling for inactive-duty training: space-required travel on military aircraft.
- [18506. Repealed.]

AMENDMENTS

2006—Pub. L. 109-163, div. A, title V, §589(b)(1), Jan. 6, 2006, 119 Stat. 3279, struck out item 18506 “Recruitment and retention: availability of funds for recognition items for Army Reserve personnel”.

2004—Pub. L. 108-375, div. A, title V, §520(a)(2), Oct. 28, 2004, 118 Stat. 1886, added item 18506.

2001—Pub. L. 107-107, div. A, title V, §518(b), Dec. 28, 2001, 115 Stat. 1096, struck out “annual training duty or” before “inactive-duty training:” in item 18505.

2000—Pub. L. 106-398, §1 [[div. A], title III, §384(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87, substituted “Reserves traveling for annual training duty or inactive-duty training: space-required travel on military aircraft” for “Reserves traveling to inactive-duty training OCONUS: authority for space-required travel” in item 18505.

1999—Pub. L. 106-65, div. A, title V, §517(a)(2), Oct. 5, 1999, 113 Stat. 595, added item 18505.

§ 18501. Reserve components: personnel and logistic support by military departments

The Secretary concerned is responsible for providing the personnel, equipment, facilities,